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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,143	10/23/2003	Kulvir Singh Bhogal	AUS920030492US1	9523
47959 7590 09/15/2008 IBM AUSTIN (ANTHONY ENGLAND) C/O LAW OFFICE OF ANTHONY ENGLAND PO BOX 5307 AUSTIN, TX 78763-5307				
EXAMINER				
KUMAR, ANIL N				
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09/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/692,143

Applicant(s)

BHOGAL, KULVIR SINGH

Examiner

ANIL N. KUMAR

Art Unit

2174

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8, 10-15 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 10-15 and 17-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This action is in response to the amendment filed on July 9th, 2008. Claims (8, 10-15 and 17-21) continue to be pending and have been considered below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng et al. ("Cheng", US 6,151,643) in view of Hsieh et al. ("Hsieh", US 2002/0158900 A1).

Claims 8 and 15: Cheng disclose an apparatus for deploying/updating software, comprising;

- a processor (service provider computer system 102, Fig. 1);
- a memory (Fig. 7) for storing program instructions executable on the processor to perform the steps of:
 - providing a Web site on a first computer system coupled to a network for presenting a user with an interface (i.e. ... system for updating diverse

software products... column 6 lines 11-30 and Fig. 1), wherein the users include purchasers (necessary payment information for the user –purchaser– may be updated, such as payment based on the number of software updates purchased, column 9 lines 17-27);

- receiving from a user a selection of software applications for deploying to a target computer system (i.e. ...user may select one or more software products ... column 8 line 21-31 and Fig. 4 under Application select box);
- receiving from a user a selection of hardware for the target computer system and responsively determining what drivers correspond to the selected hardware, wherein the first computer system has a pre-built array of post-load images stored thereon for combinations of hardware and the software applications that the user may select (i.e. ...user may select one or more software products ... column 8 line 21-31 and Fig. 4 under Application/Driver select box), the images being substantially identical to post-load images resulting on a target computer system hard drive from an installation process of corresponding pre-load images, so that the respective software images include software application configuration information, files from the corresponding pre-load images, and links to drivers for hardware of the target computer system (software update information includes applications, binary files, text files, and the like, column 6 lines 31-40);
- selecting a certain one of the pre-built images by the first computer system responsive to the received user selections, wherein the selected image has

the software applications selected by the user and the drivers for the hardware selected by the user (i.e. ... displays the list of applicable software... column 7 lines 62-64 and see Applications/Driver in Fig. 4);

- and receiving a first order from the user for the certain image of the selected software applications deployable to the target system hardware, including a selection by the user of a method for delivery of the selected image (i.e. ... for each selected software update... column 8 lines 32-36 and Fig. 5);

but does not explicitly teach, software images are pre-built array of post-load or ghost images.

However, Hsieh teach, a Graphical user interfaces for network management automated provisioning environment, and furthermore teach, once the software programs and settings have been determined, they can be packaged in a fixed format, sometimes referred to as a "ghost" or "brick", and automatically disseminated to all of the appropriate computers (paragraph [0008]). It would have been obvious to an artisan at the time of this invention to include post-load or ghost images to pre-built arrays, as taught by Hsieh, with Cheng's method as acknowledged in the applicants specification (a loading utility, Norton Ghost, offered by Symantec Corporation, paragraph [0009]), in order to provide a loading utility that includes post-load or ghost images as well as other software images.

Claim 10: Cheng disclose wherein the sending of the loading utility with the selected image further includes sending the loading utility on bootable media, and wherein the utility further includes instructions for causing the target computer system to transfer the image to a hard drive of the target system responsive to the target computer system booting to the utility on the bootable media when the target computer system is turned on (i.e..... client application performs the installation, executing any necessary decompression, installation, or setup applications necessary to install... column 9 lines 3-10 and Fig. 2).

Claim 11: Cheng disclose,

- maintaining a record of the order for the software applications and drivers included in the certain image that is sent, wherein the record is associated with an order identifier and user identifier (i.e. ... specifies one exemplary schema of the user profile database... column 10 lines 33-44 and Fig.14);
- receiving a second order for the user, including the user or order identifier; retrieving the record for the first order responsive to the user or order identifier (i.e. ...user logs in... to determine the list of installed software products... column 7 lines 11-56 and Fig. 2);
- presenting a list of the software applications and drivers included in the certain image that was sent for the first order (i.e. ...displays the list of applicable software... column 7 lines 62-64 and Fig. 2);

- and receiving a selection indicating ones of the software programs of the first order to update for the second order or indicating software applications for the second order in addition to those of the first order (i.e..... for selected software client software performs an installation... column 8 lines 32-33).

Claim 12: Cheng disclose

- maintaining a record of the order for the software applications and drivers included in the certain image that is sent, wherein the record is associated with an order identifier and user identifier (i.e. ... specifies one exemplary schema of the user profile database... column 10 lines 33-44 and Fig.14);
- receiving a second order for the user, including the user or order identifier, retrieving the record for the first order responsive to the user or order identifier (i.e. ...user logs in... to determine the list of installed software products... column 7 lines 11-56 and Fig. 2);
- and presenting, responsive to the user or order identifier, a list of suggested updates for the software programs of the first order (i.e. ...illustrates a sample user interface display of applicable software updates... column 7 lines 64-66 and Fig. 4).

Claim 13: Cheng disclose,

- maintaining a record of the order for the software applications and drivers included in the certain image that is sent, wherein the record is associated

- with an order identifier and user identifier (i.e. ... specifies one exemplary schema of the user profile database... column 10 lines 33-44 and Fig.14);
- receiving a second order for the user, including the user or order identifier;
 - retrieving the record for the first order responsive to the user or order identifier; (i.e. ...user logs in... to determine the list of installed software products... column 7 lines 11-56 and Fig. 2);
 - and presenting, responsive to the user or order identifier, a list of suggested updates for the software programs for the second order in addition to first order (i.e. ...illustrates a sample user interface display of applicable software updates... column 7 lines 64-66 and Fig. 4. Note the first order, i.e. Quicken 5.0, second order, i.e. Update from 5.0 to 5.0F, is displayed, side by side).

Claim 14: Cheng disclose

- maintaining a record of the order for the software applications and drivers included in the certain image that is sent, wherein the record is associated with an order identifier and user identifier (i.e. ... specifies one exemplary schema of the user profile database... column 20 lines 33-44 and Fig.14);
- receiving a second order for the user, including the user or order identifier (i.e. ...user logs in 201..., Fig. 2) ;
- retrieving the record for the first order responsive to the user or order identifier (i.e.... to determine the list of installed software products... column 7 lines 11-56 and Fig. 2);

- receiving user information that informs the computer system about needs of the user (i.e. see Figs. 3 and 13a-13e);
- maintaining a profile of the user, wherein the profile is associated with the user identifier and the received user information (i.e. ... specifies one exemplary schema of the user profile database ... column 20 lines 33-59 and Fig. 14);
- and presenting, responsive to the user information, a list of suggested updates for the software programs of the first order or a list of suggested software programs for the second order in addition to those of the first order (i.e. ...the user may limit the list to only those software products that need updating... ... column 8 lines 10-20 and Figs. 2 ,4).

Claim 15 is similar in scope to claim 8, and therefore rejected under similar rationale. Furthermore, Cheng disclose, a computer program product, stored on a physical, computer readable medium, for deploying software, said computer program product having instructions for execution by a computer, wherein the instructions cause the computer to implement a method when executed by the computer (The present invention relates to systems and methods for computer-based customer support, and more particularly, to systems, methods, and products for automatically updating software products from diverse software vendors on a plurality of end-user, client computer systems, column 1 lines 10-15).

Claim 17 is similar in scope to claim 10, and therefore rejected under similar rationale.

Claim 18 is similar in scope to claim 11, and therefore rejected under similar rationale.

Claim 19 is similar in scope to claim 12, and therefore rejected under similar rationale.

Claim 20 is similar in scope to claim 13, and therefore rejected under similar rationale.

Claim 21 is similar in scope to claim 14, and therefore rejected under similar rationale.

Response to Arguments

4. Applicant's arguments filed on July 9th, 2008 have been fully considered but they were found not persuasive.

- A. Applicant argues, "However, this type of automated deployment is not effective for situations in which computers, such as servers, need to be customized to accommodate the individual requirements of varied users". The examiner respectfully disagrees. The cited passage in the background information of the state of the art at the time. However the examiner points out, that the "automated deployment" was not the part of citation used from Hsieh, and hence it is moot. Hsieh is used to make a case for obviousness for including post-load images in Cheng, as all the other elements of the claim are clearly anticipated by Cheng.
- B. Applicant argues, " Even in combination with the teaching of Hsieh, this does not teach or suggest "pre-built images" where the pre-built images are limited as recited in amended claim 8 and discussed herein above, i.e., pre-built, post-load images". The examiner respectfully disagrees. Although the claim language has been clarified to include post-load images, this by itself does not preclude other types of images in the array, as the applicant seems to imply. The examiner suggests a more explicit limitation.
- C. Applicant argues, "Consequently, 'suggested software programs...', in addition to those of the first order,' as recited in claim 13, are not 'software updates,' as recited by claim 12 and taught by Cheng. However, the Final Office Action conflates the two. See Office action, page 8, last paragraph (misquoting claim 13 (and, by reference, claim 20) by reciting 'a list of suggested updates for the

software programs.”. The examiner respectfully disagrees and points out that the issue of “updates and programs” has already been addressed under Claim 8 and 15, and as a result the Cheng referred to all dependent claims should be read as the modified Cheng in view Hsieh.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil N. Kumar whose telephone number is (571) 270-1693. The examiner can normally be reached on Wednesdays and alternate Mon-Tue and Thu-Fri EST (Alternate Mon-Tue and Thu-Fri off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Stephen Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ANK

/Stephen S. Hong/
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Unit 2178

9/5/2008